

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

Crl.MC.No. 4026 of 2006()

CC.879/2005 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI
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PETITIONER:

THOMAS @ SABU, S/O.VARGHESE,
MANAKKAL HOUSE, MADAPLANTHURUTHU KARA,
VADAKKEKARA, NORTH PARUR.

BY ADV. SRI.P.GEORGE WILLIAM

RESPONDENTS:

1. MINI, D/O.THOMAS,
VELUTHEDATHU HOUSE, VACHAKKAL,
EDAVANAKKAD.
2. THRESE, W/O.THOMAS,
VELUTHEDATHU HOUSE, VACHAKKAL,
EDAVANAKKAD.
3. STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE, NARAKKAL POLICE
STATION, ERNAKULAM RURAL BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY P.P. SRI. GIKKU JACOB.
BY ADV. SRI.K.A. JALEEL (R1 & R2)

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 13/12/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 4026 OF 2006

Dated this the 13th day of December, 2006

ORDER

The petitioner faces indictment in a prosecution under Sec.498A of the IPC. Cognizance has been taken on the basis of a final report submitted by the police, after due investigation. The only allegation raised against the petitioner is the one punishable under Sec.498A of the IPC.

2. This Crl.M.C. has been filed by the petitioner – the sole accused, to request this Court to invoke its powers under Sec.482 of the Cr.P.C. to quash the prosecution initiated against him which is pending as C.C.No.879/05 before the learned Judicial Magistrate of the First Class-I, Kochi.

3. It is submitted that the petitioner has settled his disputes with his wife and mother-in-law, who are shown as respondents 1 and 2 in this Crl.M.C. and as C.Ws.1 and 2 in the prosecution launched against the petitioner. Inasmuch as the matrimonial dispute has been settled harmoniously, it is submitted that there is absolutely no justification in the prosecution under Sec.498A of the IPC continuing. Though

CRL.M.C.NO. 4026 OF 2006 - 2 :-

the offence under Sec.498A of the IPC is not compoundable under Sec.320 of the Cr.P.C., it is prayed that invoking the dictum in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386), powers under Sec.482 of the Cr.P.C. may be invoked to bring to premature termination the prosecution.

4. **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) is authority for the proposition that powers under Sec.482 of the Cr.P.C. can, in an appropriate case, be invoked if the interests of justice would transcend the mere interests of law. This, I am satisfied, is a typically fit case where such powers under Sec.482 of the Cr.P.C. can be invoked. Respondents 1 and 2 are represented by the counsel and the learned counsel for the petitioner vouches that respondents 1 and 2 have settled their disputes with the petitioner and have compounded the offence allegedly committed by the petitioner. Advocate Sri.K.A. Jaleel appears for respondents 1 and 2 and vouches for the composition of the offence. I am, in these circumstances, satisfied that the composition has, in fact, taken place and the prosecution can be brought to termination by invoking the powers under Sec.482 of the Cr.P.C.

CRL.M.C.NO. 4026 OF 2006 -: 3 :-

5. In the result:

(a) This Crl.M.C. is allowed.

(b) C.C.No.879/05 pending before the Judicial Magistrate of the First Class-I, Kochi, is hereby quashed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge